

*Facsimile No. 703-872-9306*9D-DW-19893
PATENT**REMARKS**

The Office Action mailed September 24, 2003 has been carefully reviewed and the foregoing amendment has been made in consequence thereof.

Claims 1-20 are now pending in this application. Claims 3, 6, and 10-20 are withdrawn from consideration. Claims 1, 2, 4, 5, and 7-9 stand rejected.

The rejection of Claim 9 under 35 U.S.C. § 112, second paragraph, as being indefinite is respectfully traversed.

Applicants respectfully submit that Claim 9 is definite as written. Claim 9 depends from Claim 8 which depends from independent Claim 7. Claims 7 and 8 recite a guide surface and only a guide surface, such that antecedent basis for "said surface" in Claim 9 can only be the guide surface. Nevertheless, for purposes of readability, rather than patentability, Claim 9 has been amended to recite a panel engagement portion extending from said guide surface. Accordingly, Applicants respectfully request that the Section 112 rejection of Claim 9 be withdrawn.

The rejection of Claims 1, 2, 4, 5, and 7-9 under 35 U.S.C. § 103(a) as being unpatentable over Mason (U.S. Patent No. 4,732,431) in view of Eddy et al. (U.S. Patent No. 5,848,735) is respectfully traversed.

Mason describes an interchangeable door panel (28) for a dish washer door (16). The door (16) includes a control console (26) that extends between side frame members (32) and (34). The console 26 has a downwardly facing surface (118) and an integral depending flange (94) that has a forwardly facing surface (96). A spacer (66) is assembled with panels (68), (70), and (72). The assembled panels are placed against the forwardly facing surface (96) of flange (94) and held in place by a retainer strip (138) with screws (144). It is noted that Figure 3

*Facsimile No. 703-872-9306*9D-DW-19893
PATENT

appears to be in error where the reference line for the flange (94) is pointing to a portion of the L-shaped retainer (138). With element (96), being described as a face of the flange (94), these elements cannot define a slot between each other. Further, it is notable that a stated objective in Mason is to overcome the obstacle of the control console or other door structure which prohibits the slide fitting of the panels in the receptive channels (see col. 2, lines 23-35).

Eddy et al. describe a water cooler (10) having a synthetic resin shell (11) and a cover (12). Shell (11) has side sections (16), that each include a panel (45). A vertical lip (48) extends upwardly from a ledge (34). The cover (12) has a downwardly extending lip (81) that has a bottom edge (82) that seats on ledge (34). The cover (12) rests on ledges (34) and front panel ledge (29). Guides and securing elements (83) assist in the placement of cover (12) on the shell. The securing elements (83) are described as provided in the cover (12) rather than on the lip (81) (col. 8, lines 32-33).

Applicants respectfully submit that the Section 103 rejection of the presently pending claims is not a proper rejection. As is well established, obviousness cannot be established by combining the teachings of the cited art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination. Neither Mason nor Eddy et al., considered alone or in combination, describe or suggest the claimed combination. Furthermore, in contrast to the assertion within the Office Action, Applicants respectfully submit that the references are not from the same field of endeavor. Mason relates to class/subclass 312/109, "door or closing constructions", whereas Eddy et al. is classified primarily under class/subclass 222/185.1, "bottom discharge dispensers". "In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned." In re Oetiker, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). Thus one of ordinary skill in the art would not look to combine Mason with Eddy et al., nor would he look to Eddy et al. for the structure of an escutcheon.

*Facsimile No. 703-872-9306*9D-DW-19893
PATENT

As the Federal Circuit has recognized, obviousness is not established merely by combining references having different individual elements of pending claims. Ex parte Levensgood, 28 U.S.P.Q.2d 1300 (Bd. Pat. App. & Inter. 1993). MPEP 2143.01. Rather, there must be some suggestion, outside of Applicants' disclosure, in the prior art to combine such references, and a reasonable expectation of success must be both found in the prior art, and not based on Applicants' disclosure. In re Vaack, 20 U.S.P.Q.2d 1436 (Fed. Cir. 1991). In the present case, neither a suggestion nor motivation to combine the prior art disclosures, nor any reasonable expectation of success has been shown.

Applicants respectfully submit however, that a closer examination of the prior art would reveal that the prior art teaches away from the present invention, and further, the references conflict with each other. The present invention claims an escutcheon for appliance door wherein a retaining slot for a door panel depends from a control panel mounting surface. By contrast, a stated objective in Mason is to overcome the obstacle of the control console or other door structure which prohibits the slide fitting of the panels in the receptive channels in a lower portion of the door. Eddy teaches a water cooler wherein securing elements hold a cover to a shell with no provision for slide fitting as described in Mason. Neither Mason nor Eddy et al., considered alone or in combination, describe or suggest a retaining slot as claimed, and as such, the presently pending claims are patentably distinguishable from the cited combination.

Specifically, Claim 1 recites an escutcheon for an appliance door assembly, the escutcheon including "a control panel mounting surface comprising a lower edge, and a plurality of formations depending from said lower edge and defining a retaining slot."

Neither Mason nor Eddy et al., considered alone or in combination, describe or suggest an escutcheon for an appliance door assembly, that includes a control panel mounting surface having a lower edge, and a plurality of formations depending from the lower edge and defining a retaining slot. Rather, Mason describes a mounting flange having a forwardly facing surface to

Facsimile No. 703-872-9306

9D-DW-19893
PATENT

which panels are attached, and Eddy et al. describe a resin shell for a water cooler that has securing elements attached to a cover.

Accordingly, for the reasons set forth above, Claim 1 is submitted to be patentable over Mason in view of Eddy et al.

Claims 2, 4, and 5 depend from independent Claim 1. When the recitations of Claims 2, 4, and 5 are considered in combination with the recitations of Claim 1, Applicants submit that dependent Claims 2, 4, and 5 likewise are patentable over Mason in view of Eddy et al..

Claim 7 recites an escutcheon for a dishwasher door assembly, the escutcheon including "a lower edge and a plurality of formations depending therefrom, each formation comprising an angled guide surface, said guide surface defining a retaining slot."

Neither Mason nor Eddy et al., considered alone or in combination, describe or suggest an escutcheon including a lower edge and a plurality of formations depending therefrom, each formation including an angled guide surface, and wherein the guide surface defines a retaining slot. Rather, Mason describes a mounting flange having a forwardly facing surface to which panels are attached, and Eddy et al. describe a resin shell for a water cooler that has securing elements attached to a cover.

For the reasons set forth above, Claim 7 is submitted to be patentable over Mason in view of Eddy et al.

Claims 8 and 9 depend from independent Claim 7. When the recitations of Claims 8 and 9 are considered in combination with the recitations of Claim 7, Applicants submit that dependent Claims 8 and 9 likewise are patentable over Mason in view of Eddy et al.

For the reasons set forth above, Applicants respectfully request that the Section 103 rejection of Claims 1, 2, 4, 5 and 7-9 be withdrawn.

Facsimile No. 703-872-9306

**9D-DW-19893
PATENT**

In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,



Thomas M. Fisher
Registration No. 47,564
ARMSTRONG TEASDALE LLP
One Metropolitan Square, Suite 2600
St. Louis, Missouri 63102-2740
(314) 621-5070